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10/802,461

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Robert Diaz

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EXAMINER

PARSLEY, DAVID J

ART UNIT

PAPER NUMBER

3643

DATE MAILED: 10/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/802,461

Applicant(s)

DIAZ, ROBERT

Examiner

David J. Parsley

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_



## **Detailed Action**

### ***Drawings***

1. Figures 1a-1c should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 5, 7, 12, 14-16 and 29-34 are rejected under 35 U.S.C. 102(b) as being anticipated by DE Patent No. 29810980.

Referring to claim 1, the German patent discloses a base suitable for a jump standard, comprising, a frame – see figures A-B, operably connecting a first site, second site and third site

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– see figures A-B, a first wheel mount – see proximate 5-6 in figures A1 and B1, at the first site  
– see figures A-B, a second wheel mount – see proximate the other of items 5-6 in figures A1 and B1, at the second site and coaxially aligned with the first wheel mount – see for example figures A-B, a first bracket – see at the bottom of the frame proximate 3-6 in figures A-B, at the third site adapted to receive a post – see the vertical posts in figures A-B, having a longitudinal axis protruding from a plane defined by the first site, second site and third site – see for example figures A-B.

Referring to claim 2, the German patent discloses a first member – see the tubing at the bottom of the frame proximate items 3-6, connecting the first site and the second site – see figures A-B, and a second member – another of the pieces of tubing at the bottom of the frame, connecting the third site and the first member – see for example figures A-B.

Referring to claim 3, the German patent discloses the second member connects the third site and an intersecting position on the first member – see for example the bottom tubes in the frame member in figures A-B.

Referring to claim 5, the German patent discloses the frame includes a first member – see the tubing at the bottom of the frame proximate items 3-6, connecting the first site and the second site – see figures A-B, and the third site is coupled to the first member – see for example figures A-B.

Referring to claims 7 and 32, the German patent discloses the first bracket includes a support tab – see for example at the bottom of the frame proximate items 3-6 in figures A-B.

Referring to claim 12, the German patent discloses the frame includes a first member – at the bottom tubing of the frame as seen in figures A-B, connecting the first site and the third site –

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see figures A-B, and a second member – at another of the tubing at the bottom of the frame as seen in figures A-B, connecting the second site and the third site – see for example figures A-B.

Referring to claim 14, the German patent discloses the frame further includes a third member – at the bottom of the frame as seen in figures A-B, connecting the first site and the second site – see for example figures A-B.

Referring to claim 15, the German patent discloses a second bracket – at the bottom of one of the posts as seen in figures A-B, adapted to receive a post – see figures A-B, having a longitudinal axis protruding from a plane defined by the first, second and third sites – see figures A-B, wherein the fourth site is operably linked to the frame – see for example figures A-B.

Referring to claim 16, the German patent discloses the fourth site is coupled to an element – at the bottom of the frame, connecting the first and the second sites – see for example figures A-B.

Referring to claim 29, the German patent discloses a first wheel coupled to the first wheel mount and a second wheel coupled to the second wheel mount – see for example figures A-B at items 5-6.

Referring to claim 30, the German patent further discloses a first support tab – see proximate items 5-6, coupled to the frame at the first site and a second support tab – see proximate items 5-6, coupled to the frame at the second site – see for example figures A-B.

Referring to claim 31, the German patent further discloses the first bracket includes an extension – see at the bottom of the frame in figures A-B, wherein the extension provides ground isolation when a post is received by the first bracket – see for example figures A-B.

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Referring to claim 33, the German patent further discloses the first bracket includes an internal bore defined by at least one wall – see at the bottom of the frame portion in figures A-B.

Referring to claim 34, the German patent further discloses the second bracket includes an internal bore defined by at least one wall – see for example figures A-B.

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over the German patent as applied to claims 3 or 5 above, and further in view of U.S. Patent No. 3,209,729 to Zedaker.

Referring to claim 4, the German patent does not disclose the intersecting position is equidistant from the first site and the second site. Zedaker does disclose the intersecting position – at the intersection of items 11 and 12, is equidistant from the first site – at one end of item 12 and the second site – at the opposite end of item 12 – see for example figure 1. Therefore it would have been obvious to one of ordinary skill in the art to take the device of the German patent and add the intersecting position being equidistant from the first site and the second site of Zedaker, so as to allow for the device to be stabilized during use.

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Referring to claim 6, the German patent does not disclose the third site is equidistant from the first site and the second site. Zedaker does disclose the third site – proximate 10, is equidistant from the first site – at one end of item 12 and the second site – at the opposite end of item 12. Therefore it would have been obvious to one of ordinary skill in the art to take the device of the German patent and add the third site equidistant from the first site and the second site of Zedaker, so as to allow for the device to be stabilized during use.

Claims 8-11, 13 and 17-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over the German patent '980 as applied to claims 1, 12 or 15 above, and further in view of U.S. Patent No. 4,946,139 to Tomellini.

Referring to claim 8, the German patent '980 does not disclose the frame includes a curve member connecting the first site and the second site. Tomellini does disclose the frame includes a curve member – at 11-11'' – these items are a curved pipe, connecting the first site – at the intersection of 11 and 12, and the second site – at the intersection of 11'' and 12 – see for example figures 1-2. Therefore it would have been obvious to one of ordinary skill in the art to take the device of the German patent '980 and add the frame member includes a curve member of the Tomellini, so as to allow for the device to be strengthened and more durable.

Referring to claim 9, the German patent as modified by Tomellini further discloses the curve member connects the first site and the second site through the third site – at the intersection of items 11-11'' and 17 as seen in figures 1-2 of Tomellini.

Referring to claim 10, the German patent as modified by Tomellini further discloses the third site – at the intersection of 11-11'' and 17 as seen in figures 1-2 of Tomellini, is equidistant from the first site and the second site – see for example figures 1-2 of Tomellini.

Referring to claim 11, the German patent as modified by Tomellini further discloses the frame further includes a cross member – see at the bottom tubing of the frame in figures A-B of the German patent, connecting the first site and the second site – see for example figures A-B.

Referring to claim 13, the German patent does not disclose the third site is equidistant from the first site and the second site. Tomellini does disclose the third site – at the intersection of 11-11'' and 17 as seen in figures 1-2, is equidistant from the first site and the second site – see for example figures 1-2. Therefore it would have been obvious to one of ordinary skill in the art to take the device of the German patent and add the third site being equidistant from the first and second sites of Tomellini, so as to allow for the device to be more stable during use.

Referring to claim 17, the German patent does not disclose the forth site is coupled to a first member connecting the third site and an intersecting position on a second member connecting the first site and the second site. Tomellini does disclose the forth site – at one of items 21 in figures 1-2, is coupled to a first member – at 11-11'',12, connecting the third site – at the intersection of items 11-11'' and item 17, and an intersecting position on a second member – at 11-11'', connecting the first site and the second site – see for example figures 1-2.

Referring to claim 18, the German patent as modified by Tomellini further discloses the forth site is equidistant from the first site and the second site – see for example figures 1-2 of Tomellini.

Referring to claim 19, the German patent as modified by Tomellini further discloses a first member – at 11-11'', connecting the first site and the second site – see figures 1-2, and a second member – at 11-11''-12, connecting the third site and the fourth site – see figures 1-2, wherein the first member and the second member are interconnected via an intersecting position



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of the first and the second member – see the connections of items 11-11'' with item 12 in figures 1-2 of Tomellini.

Referring to claim 20, the German patent as modified by Tomellini further discloses the frame includes a first member – at 11-11'', connecting the first site and the third site – see figures 1-2, and a second member – at 11-11'', connecting the second site and the third site – see figures 1-2, a third member – at 11-11''-17,17', connecting the first site and the forth site – see figures 1-2 and a forth member – at 11-11''-17,17', connecting the second site and the forth site – see figures 1-2, wherein the first member and the second member intersects at the third site and wherein the third member and the forth member intersects at the forth site – see figures 1-2 of Tomellini.

Referring to claim 21, the German patent as modified by Tomellini further discloses a first curve member – at 11-11'', connecting the first site and the second site through the third site – see figures 1-2, and a second curve member – at 11-11''- 12, 16 and 17 connecting the first site and the second site through the forth site – see figures 1-2 of Tomellini.

Referring to claim 22, the German patent as modified by Tomellini further discloses the first member has an adjustable length – see for example figures A1 and B1 in the German patent.

Referring to claim 23, the German patent as modified by Tomellini further discloses the first member has an outer tube and an inner tube penetratable to the outer tube, the adjustable length being determined by a depth of penetration of the inner tube into the outer tube – see for example figures A1 and B1 of the German patent.

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Referring to claim 24, the German patent as modified by Tomellini further discloses the second member has an adjustable length – see for example figures A1 and B1 of the German patent.

Referring to claim 25, the German patent as modified by Tomellini further discloses at least two of the first member, second member, third member and forth member have and adjustable length – see for example figures A1 and B1 of the German patent.

Referring to claim 26, the German patent as modified by Tomellini further discloses the first member and the second member have an adjustable length – see for example figures A1 and B1 of the German patent. The German patent as modified by Tomellini does not disclose the third and forth members have an adjustable length. However, it would have been obvious to one of ordinary skill in the art to take the device of the German patent as modified by Tomellini and add the third and forth members having adjustable lengths, so as to allow for the frame of the device to be configured into differing orientations.

Referring to claim 27, the German patent as modified by Tomellini further discloses the first member has an adjustable length – see for example figures A1 and B1 of the German patent.

Referring to claim 28, the German patent as modified by Tomellini further discloses the second member has an adjustable length – see for example figures A1 and B1 of the German patent.

Claims 35-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over the German patent as applied to claim 33 above.

Referring to claim 35, the German patent further discloses the internal bore is defined by walls – see for example figures A-B. The German patent does not disclose the internal bore is

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defined by at least four walls. However, it would have been obvious to one of ordinary skill in the art to take the device of the German patent and add the internal bore is defined by at least four walls, so as to allow for the post to be securely held by the bracket.

Referring to claim 36, the German patent further discloses a hole for receiving a bolt – see at the posts in figures A-B. The German patent does not disclose the hole is threaded. However, it would have been obvious to one of ordinary skill in the art to take the device of the German patent and add the hole is threaded, so as to allow for the bolt to be securely held in place.

### *Conclusion*

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are cited to further show the state of the art with respect to equestrian jump devices in general:

U.S. Pat. No. 2,827,116 to Zalvcik – shows animal training device

U.S. Pat. No. 4,323,034 to Carlson – shows animal jump device

U.S. Pat. No. 5,924,386 to Lewis – shows horse jump device

U.S. Pat. No. 5,967,093 to Vitt et al. – shows horse jump device

DE Pat. No. 3518384 – shows horse jump device with wheels

GB Pat. No. 2279883 – shows horse jump device

WO Pat. No. 99/44706 – shows horse jump device with wheel

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5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J. Parsley whose telephone number is (571) 272-6890.

The examiner can normally be reached on Monday-Friday from 8am to 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (571) 272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



David Parsley  
Patent Examiner  
Art Unit 3643



**PETER M. POON**  
**SUPERVISORY PATENT EXAMINER**

9/28/05